

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-7015**

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ROBERT ANDREW BARTLETT, SR.,

Petitioner - Appellant,

v.

ALVIN WILLIAM KELLER, Secretary, N.C. Dept Of Correction,

Respondent - Appellee.

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Appeal from the United States District Court for the Middle  
District of North Carolina, at Greensboro. Catherine Caldwell  
Eagles, District Judge. (1:10-cv-00437-CCE-WWD)

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Submitted: January 31, 2012

Decided: February 2, 2012

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Before NIEMEYER, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Robert Andrew Bartlett, Sr., Appellant Pro Se. Clarence Joe  
DelForge, III, Mary Carla Hollis, Assistant Attorneys General,  
Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Andrew Bartlett, Sr., seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as untimely his 28 U.S.C. § 2254 (2006) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (2006). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Bartlett has not made the requisite showing. Accordingly, we deny leave to proceed in forma paupers, deny a certificate of appealability, and dismiss the appeal. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED